

## DRAFT

### Governor's Blue Ribbon Water Task Force

Meeting Notes  
February 25-26, 2004  
Albuquerque, NM

Attendees: Brian Burnett, Elmer Salazar, John D'Antonio, D.L. Sanders, Bill Hume, Anne Watkins, Larry Blair, Conci Bokum, Stan Bulsterbaum, Frank Chaves, Wayne Cunningham, Peter Davies, Louis Gariano, Eileen Grevey Hillson, Steve Hernandez, Sarah Kotchian, Elmer Lincoln, G.X. McSherry, Paul Paryski, Bob Vocke, and Jack Westman attended the BRWTF meeting. Tanya Scott attended for Chuck Dumars.

The next meeting of the BRWTF will be March 24-25, 2004 in Albuquerque.

The Council reviewed results of the State of NM legislative session with John D'Antonio. The following passed both Houses:

- HJM2 Adopt Water-Efficient Appliance Provisions;
- HJM55 Agua Fria Village Water Rights Status;
- HJM63 Notification of Actions Affecting Acequias;
- SB87 Create Acequia Project Fund;
- SB142 Land Grant Boards of Trustees Revisions;
- SB301 Livestock Water Tank Regulation;
- SB313 Permission for Produced Water Disposal;
- SB356 Sanitary Livestock Water Facilities;
- SB383 State Engineer Water Rights Hearing Changes;
- SJM12 Develop NM Forest Health Plan; and
- SJM62 Involve Water Rights Settlement Stakeholders.

The Task Force reached agreement to recommend signing of SB87, SB301, and SB313 and vetoing of SB356 and SB383. The Chair will communicate the Task Force's recommendations to the Governor.

The Task Force discussed the need to reach closure on the Native American water rights settlements (e.g., Aamodt and Navajo) so that funding could be included in the federal omnibus water bill currently being considered by Congress.

The Task Force briefly discussed the following legislation that did not pass during the legislative session:

- Domestic water bills;
- Funding for projects recommended by the Water Trust Board (04 projects can be authorized in the next session, must look beyond Phase I of projects, and the Board can prioritize 05 projects);
- Adequate funding to deal with Pecos compact issues;
- Strategic river reserve;
- Water user fee;
- Adjudication; and
- OSE/ISC funding - an analysis of the complete budget is needed to understand any potential shortfall, need to understand extension language to expend funds, permanent funds are being depleted, temporary FTEs are an issue, recurring funding is needed, and fees could be used to generate funding.

The Task Force discussed the need to be more actively engaged before/during the next legislative session and the following points were made:

- The Task Force could be an advocacy group during the session, but advocacy is also needed outside the session;
- The Task Force could meet with the Legislature;

- The Task Force could go beyond the Interim Committee forum;
- The Task Force could help educate individuals carrying bills;
- Task Force members could meet with their representatives;
- An education package could be assembled for Task Force members to use;
- Passing legislation is about personal relationships, but a single consistent message is needed;
- The message should be consistent with implementing the SWP game plan;
- The focus should be on a few pieces of key legislation and “watching” the other bills;
- The integrity of the Task Force’s relationship with the Governor must be respected;
- There is not enough State funding available for all the State’s water funding needs; and
- NM needs to approach federal funding as a “State” and not individual competing interests.

The Task Force discussed its draft calendar for the remaining year and the following points were made:

- The calendar should tie to the SWP and OSE/ISC priorities, including educational presentations;
- It may be appropriate for the Task Force to form subcommittees to accomplish its business;
- The Task Force will travel to Las Cruces April 28-29 to tour EBID (The BRWTF tentatively plans to tour EBID on the afternoon of April 28th and hold a morning meeting on the 29<sup>th</sup>. Potential topics of discussion with EBID on the 29th include: systems operations, conservation programs, relationship with Las Cruces, and relationship with NMSU.);
- The Task Force discussed traveling to Deming and visiting several farms during one of its monthly meetings;
- The Task Force plans to travel to the Farmington area for its September meeting; and
- The Task Force will plan to have discussions on the Treaty of Guadalupe Hidalgo and Native American water rights at its March meeting.

John D’Antonio and D.L. Sanders discussed “Water Rights Administration in Times of Drought” with the Task Force. The presentation will be posted at: <http://eweb.lanl.gov/blueribbon.htm>

Task Force members stressed the need OSE/ISC progress reports, which can be used for discussion purposes, especially with the legislators.

The Task Force discussed the need to pursue federal funding at the nexus of federal-state water interactions e.g., ESA and other federal claims.

The possibility of having water rights holders pay for adjudications as in other states was discussed briefly.

The following points were made during Water Law Panel discussions:

- Water rights administration can be traced to litigation (e.g., projects, compacts, and treaties);
- Texas is looking at litigating the groundwater pumping issue on the Lower Rio Grande;
- BoR is refusing to release water on the Pecos – a potential CID takings issue;
- Irrigation districts are Class A and conservancy districts are Class A & B;
- The Tucumcari Project did not have water last year and will not have water this year – a proposed project would help solve the problem;
- OSE proactive local water management will help define individual water rights;
- Entities are attempting to use OSE as a forum for issues not related to impairment (e.g., public welfare - land use and growth), which consumes staff time and resources;
- The OSE administrative hearing is in a unique appeal position - *de novo*;
- OSE should be dealing with impairment/hydrology not public policy;
- Scope of public welfare and conservation should be narrow and technical as OSE needs reasonable bounds;
- Public welfare is a complicated issue and should address the public trust doctrine;
- The public needs to understand what OSE does;
- Administration of water is a broad complicated issue and most people only understand it as it relates to their specific needs/issues (e.g., their private property rights); and

- BRWTF members need to understand the OSE/ISC big picture and move the conversation forward in many forums, including the NM Legislature.

Brian Burnett listed the following actions items in preparing for the March/April BRWTF meetings:

- Provide recommendations to the Governor on signing and vetoing passed legislation;
- Conduct initial planning to the April EBID visit;
- Re-read the SWP to prepare for ISC/OSE SWP implementation priorities discussions;
- Set a meeting to visit with the Governor;
- Arrange for Treaty of Guadalupe Hidalgo and Native American water rights speakers;
- Consider common talking points for the Task Force; and
- Consider plan for interacting with the NM Legislature and others as appropriate.